



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

SB1763

Introduced 2/20/2015, by Sen. Julie A. Morrison

SYNOPSIS AS INTRODUCED:

325 ILCS 5/3	from Ch. 23, par. 2053
325 ILCS 5/7.3	from Ch. 23, par. 2057.3
325 ILCS 5/7.8	from Ch. 23, par. 2057.8

Amends the Abused and Neglected Child Reporting Act. Expands the definition of "abused child" to include a child abused by a professional working with the child in his or her professional capacity who inflicts corporal punishment. Expands the definition of "neglected child" to include a child who is subjected to an environment which is injurious insofar as (i) the child's environment creates a likelihood of harm to the child's health, physical well-being, or welfare and (ii) the likely harm to the child is the result of the conduct of a professional who, while working in his or her professional capacity with the child, neglects his or her professional responsibilities or engages in conduct that is contrary to his or her professional responsibilities. Requires the Department of Children and Family Services to adopt rules, by January 1, 2016, that address and set forth criteria and standards relevant to (1) investigations of reports of abuse or neglect committed by professionals working with children or adult residents in their professional capacity; and (2) investigations of allegations of harm to children or adult residents who are in child care facilities licensed by the Department under the Child Care Act of 1969, transitional living programs, or unlicensed foster homes. Provides that the Department is authorized and required to release information from unfounded reports as necessary in its determination to protect children and adult residents who are in child care facilities licensed by the Department under the Child Care Act of 1969.

LRB099 10385 KTG 30612 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning children.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Abused and Neglected Child Reporting Act is
5 amended by changing Sections 3, 7.3, and 7.8 as follows:

6 (325 ILCS 5/3) (from Ch. 23, par. 2053)

7 Sec. 3. As used in this Act unless the context otherwise
8 requires:

9 "Adult resident" means any person between 18 and 22 years
10 of age who resides in any facility licensed by the Department
11 under the Child Care Act of 1969. For purposes of this Act, the
12 criteria set forth in the definitions of "abused child" and
13 "neglected child" shall be used in determining whether an adult
14 resident is abused or neglected.

15 "Blatant disregard" means an incident where the real,
16 significant, and imminent risk of harm would be so obvious to a
17 reasonable parent or caretaker that it is unlikely that a
18 reasonable parent or caretaker would have exposed the child to
19 the danger without exercising precautionary measures to
20 protect the child from harm.

21 "Child" means any person under the age of 18 years, unless
22 legally emancipated by reason of marriage or entry into a
23 branch of the United States armed services.

1 "Department" means Department of Children and Family
2 Services.

3 "Local law enforcement agency" means the police of a city,
4 town, village or other incorporated area or the sheriff of an
5 unincorporated area or any sworn officer of the Illinois
6 Department of State Police.

7 "Abused child" means a child whose parent or immediate
8 family member, or any person responsible for the child's
9 welfare, or any individual residing in the same home as the
10 child, or a paramour of the child's parent:

11 (a) inflicts, causes to be inflicted, or allows to be
12 inflicted upon such child physical injury, by other than
13 accidental means, which causes death, disfigurement,
14 impairment of physical or emotional health, or loss or
15 impairment of any bodily function;

16 (b) creates a substantial risk of physical injury to
17 such child by other than accidental means which would be
18 likely to cause death, disfigurement, impairment of
19 physical or emotional health, or loss or impairment of any
20 bodily function;

21 (c) commits or allows to be committed any sex offense
22 against such child, as such sex offenses are defined in the
23 Criminal Code of 2012 or in the Wrongs to Children Act, and
24 extending those definitions of sex offenses to include
25 children under 18 years of age;

26 (d) commits or allows to be committed an act or acts of

1 torture upon such child;

2 (e) inflicts excessive corporal punishment; or, in the
3 case of a professional working with the child in his or her
4 professional capacity and who is prohibited from using
5 corporal punishment, inflicts corporal punishment;

6 (f) commits or allows to be committed the offense of
7 female genital mutilation, as defined in Section 12-34 of
8 the Criminal Code of 2012, against the child;

9 (g) causes to be sold, transferred, distributed, or
10 given to such child under 18 years of age, a controlled
11 substance as defined in Section 102 of the Illinois
12 Controlled Substances Act in violation of Article IV of the
13 Illinois Controlled Substances Act or in violation of the
14 Methamphetamine Control and Community Protection Act,
15 except for controlled substances that are prescribed in
16 accordance with Article III of the Illinois Controlled
17 Substances Act and are dispensed to such child in a manner
18 that substantially complies with the prescription; or

19 (h) commits or allows to be committed the offense of
20 involuntary servitude, involuntary sexual servitude of a
21 minor, or trafficking in persons as defined in Section 10-9
22 of the Criminal Code of 2012 against the child.

23 A child shall not be considered abused for the sole reason
24 that the child has been relinquished in accordance with the
25 Abandoned Newborn Infant Protection Act.

26 "Neglected child" means any child who is not receiving the

1 proper or necessary nourishment or medically indicated
2 treatment including food or care not provided solely on the
3 basis of the present or anticipated mental or physical
4 impairment as determined by a physician acting alone or in
5 consultation with other physicians or otherwise is not
6 receiving the proper or necessary support or medical or other
7 remedial care recognized under State law as necessary for a
8 child's well-being, or other care necessary for his or her
9 well-being, including adequate food, clothing and shelter; or
10 who is subjected to an environment which is injurious insofar
11 as (i) the child's environment creates a likelihood of harm to
12 the child's health, physical well-being, or welfare and (ii)
13 the likely harm to the child is the result of a blatant
14 disregard of parent or caretaker responsibilities; or who is
15 subjected to an environment which is injurious insofar as (i)
16 the child's environment creates a likelihood of harm to the
17 child's health, physical well-being, or welfare and (ii) the
18 likely harm to the child is the result of the conduct of a
19 professional who, while working in his or her professional
20 capacity with the child, neglects his or her professional
21 responsibilities or engages in conduct that is contrary to his
22 or her professional responsibilities; or who is abandoned by
23 his or her parents or other person responsible for the child's
24 welfare without a proper plan of care; or who has been provided
25 with interim crisis intervention services under Section 3-5 of
26 the Juvenile Court Act of 1987 and whose parent, guardian, or

1 custodian refuses to permit the child to return home and no
2 other living arrangement agreeable to the parent, guardian, or
3 custodian can be made, and the parent, guardian, or custodian
4 has not made any other appropriate living arrangement for the
5 child; or who is a newborn infant whose blood, urine, or
6 meconium contains any amount of a controlled substance as
7 defined in subsection (f) of Section 102 of the Illinois
8 Controlled Substances Act or a metabolite thereof, with the
9 exception of a controlled substance or metabolite thereof whose
10 presence in the newborn infant is the result of medical
11 treatment administered to the mother or the newborn infant. A
12 child shall not be considered neglected for the sole reason
13 that the child's parent or other person responsible for his or
14 her welfare has left the child in the care of an adult relative
15 for any period of time. A child shall not be considered
16 neglected for the sole reason that the child has been
17 relinquished in accordance with the Abandoned Newborn Infant
18 Protection Act. A child shall not be considered neglected or
19 abused for the sole reason that such child's parent or other
20 person responsible for his or her welfare depends upon
21 spiritual means through prayer alone for the treatment or cure
22 of disease or remedial care as provided under Section 4 of this
23 Act. A child shall not be considered neglected or abused solely
24 because the child is not attending school in accordance with
25 the requirements of Article 26 of The School Code, as amended.

26 "Child Protective Service Unit" means certain specialized

1 State employees of the Department assigned by the Director to
2 perform the duties and responsibilities as provided under
3 Section 7.2 of this Act.

4 "Person responsible for the child's welfare" means the
5 child's parent; guardian; foster parent; relative caregiver;
6 any person responsible for the child's welfare in a public or
7 private residential agency or institution; any person
8 responsible for the child's welfare within a public or private
9 profit or not for profit child care facility; or any other
10 person responsible for the child's welfare at the time of the
11 alleged abuse or neglect, including any person that is the
12 custodian of a child under 18 years of age who commits or
13 allows to be committed, against the child, the offense of
14 involuntary servitude, involuntary sexual servitude of a
15 minor, or trafficking in persons for forced labor or services,
16 as provided in Section 10-9 of the Criminal Code of 2012, or
17 any person who came to know the child through an official
18 capacity or position of trust, including but not limited to
19 health care professionals, educational personnel, recreational
20 supervisors, members of the clergy, and volunteers or support
21 personnel in any setting where children may be subject to abuse
22 or neglect.

23 "Temporary protective custody" means custody within a
24 hospital or other medical facility or a place previously
25 designated for such custody by the Department, subject to
26 review by the Court, including a licensed foster home, group

1 home, or other institution; but such place shall not be a jail
2 or other place for the detention of criminal or juvenile
3 offenders.

4 "An unfounded report" means any report made under this Act
5 for which it is determined after an investigation that no
6 credible evidence of abuse or neglect exists.

7 "An indicated report" means a report made under this Act if
8 an investigation determines that credible evidence of the
9 alleged abuse or neglect exists.

10 "An undetermined report" means any report made under this
11 Act in which it was not possible to initiate or complete an
12 investigation on the basis of information provided to the
13 Department.

14 "Subject of report" means any child reported to the central
15 register of child abuse and neglect established under Section
16 7.7 of this Act as an alleged victim of child abuse or neglect
17 and the parent or guardian of the alleged victim or other
18 person responsible for the alleged victim's welfare who is
19 named in the report or added to the report as an alleged
20 perpetrator of child abuse or neglect.

21 "Perpetrator" means a person who, as a result of
22 investigation, has been determined by the Department to have
23 caused child abuse or neglect.

24 "Member of the clergy" means a clergyman or practitioner of
25 any religious denomination accredited by the religious body to
26 which he or she belongs.

1 (Source: P.A. 96-1196, eff. 1-1-11; 96-1446, eff. 8-20-10;
2 96-1464, eff. 8-20-10; 97-333, eff. 8-12-11; 97-803, eff.
3 7-13-12; 97-897, eff. 1-1-13; 97-1063, eff. 8-24-12; 97-1150,
4 eff. 1-25-13.)

5 (325 ILCS 5/7.3) (from Ch. 23, par. 2057.3)

6 Sec. 7.3. (a) The Department shall be the sole agency
7 responsible for receiving and investigating reports of child
8 abuse or neglect made under this Act, including reports of
9 adult resident abuse or neglect as defined in this Act, except
10 where investigations by other agencies may be required with
11 respect to reports alleging the death of a child, serious
12 injury to a child or sexual abuse to a child made pursuant to
13 Sections 4.1 or 7 of this Act, and except that the Department
14 may delegate the performance of the investigation to the
15 Department of State Police, a law enforcement agency and to
16 those private social service agencies which have been
17 designated for this purpose by the Department prior to July 1,
18 1980.

19 (b) Notwithstanding any other provision of this Act, the
20 Department shall adopt rules expressly allowing law
21 enforcement personnel to investigate reports of suspected
22 child abuse or neglect concurrently with the Department,
23 without regard to whether the Department determines a report to
24 be "indicated" or "unfounded" or deems a report to be
25 "undetermined".

1 (c) By January 1, 2016, the Department shall adopt rules
2 that address and set forth criteria and standards relevant to
3 (i) investigations of reports of abuse or neglect committed by
4 professionals working with children or adult residents in their
5 professional capacity; and (ii) investigations of allegations
6 of harm to children or adult residents who are in child care
7 facilities licensed by the Department under the Child Care Act
8 of 1969, transitional living programs, or unlicensed foster
9 homes.

10 (Source: P.A. 95-57, eff. 8-10-07; 96-1446, eff. 8-20-10.)

11 (325 ILCS 5/7.8) (from Ch. 23, par. 2057.8)

12 Sec. 7.8. Upon receiving an oral or written report of
13 suspected child abuse or neglect, the Department shall
14 immediately notify, either orally or electronically, the Child
15 Protective Service Unit of a previous report concerning a
16 subject of the present report or other pertinent information.
17 In addition, upon satisfactory identification procedures, to
18 be established by Department regulation, any person authorized
19 to have access to records under Section 11.1 relating to child
20 abuse and neglect may request and shall be immediately provided
21 the information requested in accordance with this Act. However,
22 no information shall be released unless it prominently states
23 the report is "indicated", and only information from
24 "indicated" reports shall be released, except that information
25 concerning pending reports may be released pursuant to Sections

1 7.14 and 7.22 of this Act to the attorney or guardian ad litem
2 appointed under Section 2-17 of the Juvenile Court Act of 1987
3 and to any person authorized under paragraphs (1), (2), (3) and
4 (11) of Section 11.1. In addition, State's Attorneys are
5 authorized to receive unfounded reports for prosecution
6 purposes related to the transmission of false reports of child
7 abuse or neglect in violation of subsection (a), paragraph (7)
8 of Section 26-1 of the Criminal Code of 2012 and attorneys and
9 guardians ad litem appointed under Article II of the Juvenile
10 Court Act of 1987 shall receive the reports set forth in
11 Section 7.14 of this Act in conformance with paragraph (19) of
12 Section 11.1 and Section 7.14 of this Act. The Department is
13 authorized and required to release information from unfounded
14 reports as necessary in its determination to protect children
15 and adult residents who are in child care facilities licensed
16 by the Department under the Child Care Act of 1969. The names
17 and other identifying data and the dates and the circumstances
18 of any persons requesting or receiving information from the
19 central register shall be entered in the register record.

20 (Source: P.A. 97-1150, eff. 1-25-13; 98-807, eff. 8-1-14;
21 revised 11-25-14.)